

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION**

**OLLIE LEE EVANS**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 2:11cv87-MTP**

**SARAH JAMES**

**DEFENDANT**

**ORDER**

THIS MATTER is before the court on the Plaintiff's Motion [104] for Miscellaneous Relief, Motion for Extension [109], and Motion for a New Trial [110].

In his first Motion [104], it appears Plaintiff is asking the court to construe his pleadings and claims more liberally since he is proceeding *pro se*. This action was dismissed after a bench trial on November 5, 2012. *See* Final Judgment [97]. Accordingly, Plaintiff's motion should be denied as moot.

In his Motion for Extension [109], Plaintiff seeks an extension of time "in all his cases" due to the fact he had surgery on his hand and was just released from the hospital. Plaintiff does not specify what he needs an extension for in this case. Plaintiff has already filed a notice of appeal of the Final Judgment [97] in this case. The only current deadline in this case of which the court is aware is Plaintiff's deadline to pay the filing fee for his appeal.<sup>1</sup> Accordingly, the court will grant him a brief extension of time to do so.

Finally, Plaintiff moves for a new trial. Under Rule 59(a)(1)(B), the court may grant a new trial "for any reason for which a rehearing has heretofore been granted in a suit in equity in federal court." Fed. R. Civ. P. 59(a)(1)(B). This court has discretion to grant a new trial under

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<sup>1</sup>The court recently entered an Order [112] denying Plaintiff's motions to proceed *in forma pauperis* on appeal.

Rule 59(a) "where it is necessary to prevent an injustice." *United States v. Flores*, 981 F.2d 231, 237 (5th Cir. 1993) (internal citations and quotations omitted). Plaintiff has failed to make such a showing.

IT IS, THEREFORE, ORDERED:

1. That Plaintiff's Motion [104] for Miscellaneous Relief is denied.
2. Plaintiff's Motion for Extension [109] is granted in part and denied in part.  
Plaintiff's Motion [109] is granted to the extent he seeks an extension to pay his filing fee in the amount of \$455.00 for his appeal. The fee shall be paid on or before December 31, 2012. Any remaining relief demanded in the motion is denied.
3. Plaintiff's Motion for a New Trial [110] is denied.

SO ORDERED this 12th day of December, 2012.

s/ Michael T. Parker  
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United States Magistrate Judge